UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,841	03/26/2004	Blayn W. Beenau	70655.0500	2840

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EXAMINER
NGUYEN, NAM V

ART UNIT	PAPER NUMBER
2612	

DATE MAILED: 05/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Office Action Summary	Application No.	Applicant(s)
	10/708,841	BEENAU ET AL.
	Examiner	Art Unit
	Nam V. Nguyen	2612

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _28 April 2006_.

2a)☒ This action is FINAL.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-16_ is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-16_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All   b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

This communication is in response to applicant's Amendment which is filed April 28, 2006.

An amendment to the claims 1-2 and 5-8 has been entered and made of record in the application of Beenau et al. for a "biometric safeguard method with a fob" filed March 26, 2004.

The new set of claims 13-16 are introduced.

Claims 1-16 are pending.

Response to Arguments

Based upon the applicants submitted a terminal disclaimer, in compliance with 37 C.F.R. § 1.321 (c), therefore the examiner has withdrawn double patenting rejections.

In view of applicant's amendment to amend the claims 1-2 and 5-8 to obviate the §112 rejections, therefore, examiner has withdrawn the rejection under 35 U.S.C §112, second paragraph.

Applicant's amendment and arguments with respect to claims 1-12, filed April 28, 2006 have been fully considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kita

(US# 6,703,918) and in view of Prorock et al. (Pub. No. US2002/0169673).

Referring to claim 1, Kita discloses a method for facilitating biometric security in a

transponder-reader transaction system (i.e. a portable information system) (column 1 line 64 to

column 2 line 38; see Figures 1-4), said method comprising:

detecting a proffered biometric (i.e. fingerprint) at a sensor (8) communicating with said

system to obtain a proffered biometric sample (i.e. authentication data) (column 4 lines 20 to 59;

column 10 line 62 to column 11 line 14; see Figures 1-3 and 10-11);

verifying the proffered biometric sample (i.e. authentication data) (column 4 line 60 to

column 5 line 9; column 6 line 44 to column 7 line 28; column 11 lines 15 to 61; see Figures 3

and 6-7); and

authorizing a transaction upon verification of the proffered biometric sample (column 7

lines 28 to 67; column 11 lines 62 to 68; see Figures 6-7 and 10-11).

However, Kita did not explicitly disclose determining whether a transaction violates an established transaction limitation and notifying a user to proffer a biometric sample to override said established transaction limitation.

In the same field of endeavor of portable information and transaction processing system, Prorock et al. teach that determining whether a transaction violates an established transaction limitation (i.e. exceeding the maximum limit) and notifying a user to proffer a biometric sample (i.e. fingerprint) to override said established transaction limitation (page 2; paragraph 0019 to 0020; see Figures 2 and 4) in order to check or verify authorization of each transaction violates the maximum limitation.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to recognize using biometric information of a manager to override a predetermined preset transaction limit taught by Prorock et al. in a portable information equipment authentication device of Kita because verifying a biometric information of a manager to override a preset transaction limits would improve security and increase efficiently of using a portable electronic device in a general transaction system.

Referring to claim 2, Kita in view of Prorock et al. disclose method of claim 1, Prorock et al. disclose wherein said step of determining whether a transaction violates an established transaction limitation includes determining whether said transaction is at least one of a purchase exceeding an established per purchase spending limit (page 1; paragraph 0002; see Figures 1-4).

Referring to claim 3, Kita in view of Prorock et al. disclose method of claim 1, Prorock et al. disclose wherein said step of notifying includes providing notification by at least one of an audible signal, visual signal, blinking, signaling and beeping to said user (page 2; paragraph 0020; see Figures 1-4).

Referring to claim 4, Kita in view of Prorock et al. disclose method of claim 1, Kita discloses wherein said step of detecting further includes detecting a proffered biometric (i.e. a fingerprint) at a sensor (8) (i.e. a fingerprint sensor section) configured to communicate with said system (32) via at least one of a transponder (6) (i.e. a radio communication section) (column 4 line 20 to column 5 line 9; see Figures 1-3 and 10-11).

Referring to claim 5, Kita in view of Prorock et al. disclose method of claim 1, Kita discloses wherein said step of detecting includes at least one of: detecting, storing, and processing a proffered biometric sample (i.e. authentication data) (column 4 line 20 to column 5 line 9; see Figures 1-3 and 10-11).

Referring to claim 6, Kita in view of Prorock et al. disclose method of claim 1, Kita discloses wherein said step of detecting further includes receiving a finite number of proffered biometric samples during a transaction (column 4 line 20 to column 5 line 9; column 10 line 62 to column 11 line 61; see Figures 1-3 and 10-11).

Referring to claim 7, Kita in view of Prorock et al. disclose method of claim 1, Kita discloses wherein said step of detecting includes logging each proffered biometric sample (i.e. authentication data) (column 5 lines 55 to column 6 line 43; column 9 line 66 to column 10 line 13).

Referring to claim 8, Kita in view of Prorock et al. disclose method of claim 1, Kita discloses wherein said step of detecting further includes at least one of detection, processing and storing at least one second proffered biometric sample (i.e. authentication data) (column 9 line 66 to column 10 line 36).

Referring to claim 9, Kita in view of Prorock et al. disclose method of claim 1, Kita discloses wherein said step of verifying includes comparing a proffered biometric sample (i.e. inputted authentication data) with a stored biometric sample (i.e. organic authentication registration data registered in the organic authentication registration data unit 154) (column 11 line 42 to 61; see Figure 10).

Referring to claim 10, Kita in view of Prorock et al. disclose method of claim 9, Kita discloses wherein comparing a proffered biometric sample (i.e. inputted authentication data) with a stored biometric sample (i.e. organic authentication registration data) includes comparing a proffered biometric sample with at least one of a biometric sample of a transponder user (i.e. user of a portable information equipment 1) (column 11 line 42 to 61; see Figure 10).

Referring to claim 11, Kita in view of Prorock et al. disclose method of claim 1, Kita

discloses wherein said step of verifying includes verifying a proffered biometric sample using

information contained on at least one of a local database (i.e. an organic authentication

registration data at the equipment 154) (column 11 line 42 to 61; see Figure 10).

Referring to claim 12, Kita in view of Prorock et al. disclose method of claim 1, Kita

discloses wherein said step of verifying includes verifying a proffered biometric scan sample (i.e.

inputted authentication data) using one of a protocol/sequence controller (152) (i.e. a control

circuit) and a third-party security vendor (37) (i.e. service business) (column 5 line 40 to column

7 line 52; column 10 line 62 to column 11 line 67; see Figure 1-7 and 10-11).

Referring to claim 16, Kita in view of Prorock et al. disclose method of claim 9, Prorock

et al. discloses wherein said stored biometric sample is stored by one of a third-party biometric

security vendor (pages 1-2, paragraph 0015; see Figure 4).

Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kita (US#

6,703,918) in further view of Prorock et al. (PUB NO: 2002/0169673 A1) as applied to Claim 1

above, and in further view of Griswold et al. (US# 6,629,591).

Referring to claim 13, Kita in view of Prorock et al. disclose method of claim 1,

however, Kita in view of Prorock et al. did not explicitly disclose further whether said proffered

biometric sample is associated with a preset transaction limitation independent of said

established transaction with a financial account.

In the same field of endeavor of portable electronic device, Griswold et al. teach that

determining whether said biometric sample (i.e. biometric information of user) is associated with

a preset transaction limitation (column 9 lines 30 to 55; see Figure 5) in order to authorize to

proceed with the requested transaction.

At the time of the invention, it would have been obvious to a person of ordinary skill in

the art to recognize using biometric information associated with a predetermined preset

transaction limit taught by Griswold et al. in a portable information equipment authentication

device of Kita in view of Prorock et al. because verifying a biometric information associated

with a preset transaction limits would improve security of using a portable electronic device and

to minimize time spent accessing a user accounts.

Referring to claim 14, Kita in view of Prorock et al. and Griswold et al. disclose method

of claim 13, Prorock et al. disclose wherein said step of determining whether a transaction

violates an established transaction limitation includes determining whether said transaction is at

least one of a purchase exceeding an established per purchase spending limit (page 1; paragraph

0002; see Figures 1-4).

Referring to claim 15, Kita in view of Prorock et al. and Griswold et al. disclose method

of claim 14, Prorock et al. disclose further comprising requiring a second proffered biometric

sample to override said preset transaction limitation (page 2; paragraph 0019 to 0020; see

Figures 2 and 4).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL.** Applicant is reminded of the

extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

Houvener (US# 6,424,249) discloses a positive identity verification system and method
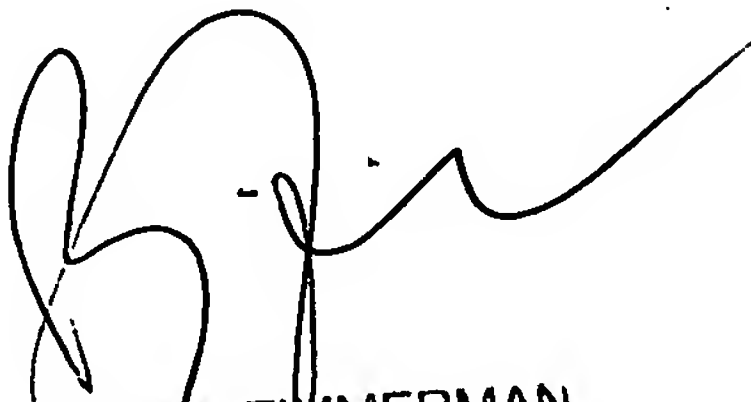
including biometric user authentication.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nam V Nguyen whose telephone number is 571-272-3061. The examiner can normally be reached on Mon-Fri, 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on 571- 272-7308. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nam Nguyen
May 22, 2006

BRIAN ZIMMERMAN
PRIMARY EXAMINER